

MINUTES OF A TOWN PLANNING & BUILDING COMMITTEE (PRIVATE DOMAIN) MEETING, HELD IN THE COMMITTEE MEETING ROOM, ON TUESDAY, 10 APRIL, COMMENCING AT 6.30PM.

PART II

Discussion on Parking Issues

While the use is not listed in the Zoning Table, TPS 3 includes a Schedule 11 Car Parking Standards, which includes a number of additional uses to those listed in the Zoning Table, and specifies the recommended car parking requirements for these uses.

A "Day Spa" is considered to be a use that could arguably fall within the meaning of the use "*Indoor Recreation*", which includes gymnasium and health studio amongst the indoor recreational uses. (No definition of "Indoor Recreation" is provided in the Scheme)

Schedule 11 defines the parking requirement for these uses as "*1 space for every 10m² net floor area*" and "*1 space for every staff member present during peak operation*".

The 2 proposed therapy rooms occupy a net floor area of 32m² therefore the proposed use generates a standard of 4 car parking spaces.

In addition it should be noted that the existing development was approved on the basis of plans which showed a double carport and a garage and a requirement under TPS No. 2 of 2 car bays being provided. This means that if one car bay is being offered in respect of this application, this represents a relaxation of 1 bay from the previous approval at least for the hours in which the business is operating.

Effectively the applicant has sought to use for staff parking, a bay which the owner is meant to be providing for on site residential parking. This means the on site staff car bay proposed cannot be applied to this proposal. The shortfall identified thus remains at 4 bays.

On Monday 26 March 2007 at approximately 1.00pm the Consultant Town Planner visited the subject land and made some observations regarding car parking in the locality.

It was observed that the Council car park, which is situated near (50m walk) the subject site behind the Antiques shop at 128 George Street, was mainly empty with only 2 of the 9 bays filled. (Further site visits confirm that this is a regular occurrence at various times of the day.)

The eastern end of George Street where the subject land is situated was virtually clear of motor vehicles, and unrestricted parking is also available nearby along Duke Street.

It is considered relevant to refer to the Council meeting held in November 2006 at which it considered a report by the Chief Executive Officer (CEO) regarding the car parking issues relating to "Hubble's Yard" at 42 Hubble Street (corner George Street).

The CEO's comprehensive report on the Hubble's Yard application contained detailed advice on Scheme provisions in relation to parking, with specific reference to George Street.

The report also provided a very useful template for considering parking issues as they relate to planning applications and the following advice in italics is quoted from that report, with accompanying advice based on the approach taken in that report.

"Relevant Scheme Provisions – Particularly in Relation to Parking

The development is within a Mixed Use Zone, one of three types of commercial zone. Under Council's Town Planning Scheme No 3, the following provision applies in the first instance:

5.8.5 *Car Parking and Vehicular Access: Car parking in respect of development in the Commercial Zones is to be provided in accordance with the standards set out in Schedule 11 of the Scheme and the specifications in Schedule 12 of the scheme.*

It has already been concluded that the applicable standard in this case is 4 bays and the applicant is not providing any bays.

“Based on a standard of (4) bays, one would then turn to how that standard could be met.

The Scheme provisions provide 4 means:

- (i) on-site (section 5.8.6 refers)*
- (ii) immediately adjacent on-street car parking as per 5.8.7 which reads as follows:
5.8.7 On-Street Parking: The local government may accept immediately adjacent on-street car parking as satisfying part or all of the car parking requirements for development, provided such allocation does not prejudice adjacent development or adversely affect the safety or amenity of the locality.*
- (iii) off-site as per 5.8.6 which reads, in part:
5.8.6 Location of Car Parking ... subject to the local government's approval, off-site in the immediate vicinity of the development site. In considering a proposal for off-site parking, applicants will need to demonstrate to the satisfaction of the local government that any off-site parking areas will continue to be available for use in conjunction with the development at such times as it might reasonably be required.*
- (iv) cash-in-lieu as per 5.8.8 which reads as follows:
5.8.8 Cash-in-lieu of Parking: The local government may accept or require cash-in-lieu of all or a proportion of required car parking, based on the estimated cost of providing the requisite parking, including any associated access and manoeuvre facilities. Cash-in-lieu of parking shall be paid into a trust fund and used to provide public parking in the vicinity of the development site(s) in relation to which any cash-in-lieu contributions have been received.”*

In respect of the above the following comments are made:

1. In relation to (i), the applicant has proposed on-site parking for one staff vehicle. However it has already been explained that as the on site parking is already factored in to an earlier planning approval, it cannot be applied to this proposal. Nevertheless it is relevant to note that it may well be the case that, at least during Monday to Friday, from 9-5pm, an on site bay is available for staff parking.
2. In relation to (ii), no immediately adjacent on-street car parking is available.
3. In relation to (iii), whilst the applicant has made reference to the public car park in George Street (as have a number of other applicants in recent times) this parking cannot be applied to “meet” the shortfall. In the CEO’s report this was explained as follows:

“Elected members should note that this provision effectively refers to private off site parking arrangements eg leased bays in a private or public car park. The public car park in George Street for example would not be relevant to this provision as:

- (i) there are no exclusive bays*
- (ii) there is no guarantee this car park will continue to be available, eg*

the adjacent building and land may be sold by a future Council.”

This does not mean the public car park cannot be referred to in terms of *relaxing* requirements – see below.

4. In relation to (iv), it is open to elected members to determine a cash-in-lieu payment in respect of all or part of the identified 4 bay shortfall. In terms of the amount involved the CEO advised as follows:

“The appropriate course of action to determine such a figure is to commission advice from the Valuer General’s Office and were Council to do so, a wait of several weeks would be expected. In 2005 however, the applicable calculation (for open parking) was \$17,000 per bay.

That figure may have now increased, however should constitute a reasonable guide.

McLeods confirm however that it is open to elected members to set any figure they choose, as long as this is recognised as a relaxation and as long as the exercise of that relaxation power is appropriately done.

(There) would also be the issue of where the cash-in-lieu could be applied. According to the Scheme it needs to involve the provision of “public parking in the vicinity of the development site”. The George Street public car park would be an example, although this is largely already developed. On the other hand, Council is due to incur expenditure in relation to this car park in the near future, in respect of creating more car bays by removing the toilets, remarking the car park and installing new lighting, new signs (including illuminated signs) etc.

Other sites are however “coming onto the market” particularly land being released by Main Roads, which the Tradewinds is also showing an interest in.”

The CEO also addresses the issue of relaxations of parking standards, as follows:

“Relaxations

Under clause 5.6 of Town Planning Scheme No 3, the applicable Parking Standard may be relaxed, unconditionally or subject to such conditions as the local government thinks fit.

However the power conferred in this clause can only be exercised if:

- (i) Council is satisfied the non compliance will not have an adverse effect upon the occupiers and users of the development, the inhabitants of the locality or the likely future development of the locality.*
- (ii) Council is satisfied the relaxation would be appropriate having regard to the criteria set out in clause 10.2*

and

- (iii) If, in the opinion of Council, the relaxation is likely to affect any owners or occupiers in the general locality or adjoining the site, the Council is to consult the affected parties, as per the provisions of clause 9.4 and have regard to any expressed views prior to making its determination to grant the relaxation.*

With respect to (i) above, this is self explanatory and may also be read in conjunction with (ii) below. Note the reference to “likely future development of the locality”.

These issues will be largely a matter of subjective judgement by elected members.

With respect to (ii) the criteria extracted from clause 10.2 which appears relevant is as follows:

- (a) *the aims, objectives and provisions of the Scheme*
- (j) *the compatibility of a use or development with its setting;*
- (k) *any social issues that have an effect on the amenity of the locality;*
- (o) *the preservation of the amenity of the locality;*
- (q) *whether the proposed means of access to and egress from the site are adequate and whether adequate provision has been made for the loading, unloading, manoeuvring and parking of vehicles;*
- (r) *the amount of traffic likely to be generated by the proposal, particularly in relation to the capacity of the road system in the locality and the probable effect on traffic flow and safety;*
- (s) *whether public transport services are necessary and, if so, whether they are available and adequate for the proposal;*

Again, elected members would need to make their own judgements on these issues, most of which are quite subjective. Some are not subjective, e.g. in relation to ... (s) elected members are aware there is no public transport in George Street.

With respect to the provisions of the Scheme, ... , the following are relevant and need to be considered by elected members before any decision on granting a relaxation on parking is considered.

- (i) *Aims of the Scheme*
To ensure the safe and convenient movement of people throughout the Town, including pedestrians, cyclists, public transport users and motorists.
- (ii) *General objective of all zones*
To promote the integration of transport and land use, and to encourage the use of low energy transport modes, such as walking, cycling and public transport.
- (iii) *Objectives of mixed use zone*
 - *To provide for a limited range of commercial, civic and community facilities to meet the day to day needs of the community, but which will not prejudice the amenities of the neighbourhood;*
 - *To ensure future development within each of the Mixed Use Zones is sympathetic with the desired future character of each area, and that a significant residential component is retained as part of any new development;*
 - *To promote the coordination of development within each of the Mixed Use Zones and to facilitate the safe and convenient movement of pedestrians to and within the area;*
 - *To ensure the location and design of vehicular access and parking facilities do not detract from the amenities of the area or the integrity of the streetscape.*
- (iv) *Car parking standards in mixed use zone*
Referred to previously.
- (v) *Development in the Mixed Use Zone*
No development is to be approved in a mixed use zone where it would prejudice the character or amenity of the locality by reason of the nature of the resultant activities, the building design or the impact of traffic or car parking.

In short, having considered all of the above provisions, Council has the power,

if satisfied that the relevant Scheme provisions have been met, to relax the Parking Standards applicable in this case.”

One comment which the CEO made in relation to Hubble’s Yard is also valid in this case, given the “research” on client transport the applicant has referred to in her submission. This was:

“the survey of patrons has never been provided to Council and thus no assessment can be made regarding the validity of the survey”.

The CEO also addresses the issue of future uses, as follows:

“Future Use

All of the above comments, including comments regarding matters in respect of which Council needs to be sufficiently satisfied before it can properly relax relevant Scheme standards, apply to the current use and potential future use.

Council’s solicitors had previously advised in respect of this application and such planning applications generally, of the need to respect Scheme provisions with regard to protecting local amenity etc, should, for example ownership change and a different type of business, perhaps attracting different patrons, and/or involving different hours of operation and/or involving different staffing arrangements, be established (noting also this could happen even without an ownership change).

In this regard McLeods recently advised that, if Council saw fit, in order to satisfactorily address this aspect of Council’s obligations, whilst at the same time assisting the owner in her endeavours to obtain a valid planning approval, Council could attach conditions to the grant of approval which provided safeguards in terms of future use.”

CONCLUSION

Council has no option, at present, other than to consider this application in accordance with relevant Scheme provisions.

As the CEO wrote:

“It may be that, in time, Council develops a Local Planning Policy which deals with parking in George Street (or the George Street Precinct, or other areas of the Town).

It may be that the foreshadowed Strategic Urban Plan has a bearing on such applications in future.

Meanwhile, the Scheme provisions apply. Those provisions provide for relaxations of applicable standards if Council has satisfied itself with regard to relevant matters which must be considered prior to considering granting such relaxations.”

These comments related to the Hubble’s Yard application. However now that application has been dealt with, and given the way in which it was dealt with, the issue of precedent has arisen.

The CEO referred to this issue in his report as follows:

“Elected members (were) advised to be mindful that any relaxation granted would give rise to the issue of potential precedent in respect of other planning applications and in particular any future relevant SAT appeals. Elected members would be advised that Council’s legal advice is that it was a very relevant issue for elected members to consider.”

In the case of Hubble's Yard, the identified shortfall was 8 bays, yet no requirement, including cash-in-lieu, was imposed to address that shortfall.

Given the proximity of Hubble's Yard to the location of the property at issue here, based on the above advice, the outcome in the Hubble's Yard case has arguably established a potential precedent for an applicant to seek recourse to in an appeal situation, particularly as Hubble's Yard, with 35 patrons, arguably generates a much greater potential parking demand.

In this case there is one staff member and at best two clients at any particular time. Like Hubble's Yard, it is a daytime operation. The proposal arguably involves a "quieter" section of George Street, at least during the day. It is adjacent to Council's car park.

In the author's view, particularly with the Hubble's Yard precedent in mind and the issue of inconsistency if a different position were to be adopted, it is logical for elected members to adopt a similar position in this case.

Nevertheless it would also be open to elected members to impose a cash-in-lieu requirement in respect of all or part of the identified 4 bay shortfall, if, having considered all of the applicable Scheme provisions and the specific circumstances of this case, including whether the parking situation in George Street has changed since the Hubble's Yard approval, elected members considered this was justified.

RECOMMENDATION

That Council grant Planning Approval to use the ground floor of the building at No. 130B (Lot 2) George Street, East Fremantle as a Day Spa incorporating a reception area and 2 therapy rooms in accordance with the plans and documentation date stamp received on 6 March 2007 subject to the following conditions:

1. Council exercise its discretion in granting its approval for the parking requirement as per TPS3 Parking Standards being reduced from 4 car bays to (0) car bays.
2. (1) on site staff bay being provided and available for this purpose during all trading hours.
3. there shall be no wholesale or retail sales of any products used in association with the "Day Spa" at 130B George Street.
4. operation limited to the treatment of one client at a time.
5. operation limited to one staff member.
6. any signage proposed for the business to be the subject of a separate application for Planning Approval and a Sign Licence.
7. Hours of operation to be limited from 9:00am to 5:00pm, Monday to Saturday.
8. compliance with Health Act 1911 (as amended) and Regulations made thereunder including the Code of Practice for Skin Penetration Procedures.
9. planning approval to remain valid for a period of 24 months from date of this approval.

Ms Helen Spencer (adjoining neighbour) and Ms Robyn Oliver (resident) addressed the meeting and raised the following points:

- *Council required to maintain the balance in a mixed use area – business use in this area far exceeds residential use*
- *imbalance creates a loss of community*
- *greater impact from vehicular traffic – Council has already used its discretion to waive the parking requirements for Hubble's Yard*
- *the proposed 'Day Spa' should not be considered in isolation – the proposed use of the remainder of the building should also be considered*
- *this end of George Street is losing its residential capacity and will become another 'High Street'.*

Mr Wade Anderson (owner) and Mr John Mitchell (representing the applicant) also addressed the meeting.

RECOMMENDATION TO COUNCIL

Cr Martin – Cr Ferris

That Council grant Planning Approval to use the ground floor of the building at No. 130B (Lot 2) George Street, East Fremantle as a Day Spa incorporating a reception area and 2 therapy rooms in accordance with the plans and documentation date stamp received on 6 March 2007 subject to the following conditions:

1. Council exercise its discretion in granting its approval for the parking requirement as per TPS3 Parking Standards being reduced from 4 car bays to (0) car bays.
2. (1) on site staff bay being provided and available for this purpose during all trading hours.
3. there shall be no wholesale or retail sales of any products used in association with the "Day Spa" at 130B George Street.
4. operation limited to the treatment of one client at a time.
5. operation limited to one staff member.
6. any signage proposed for the business to be the subject of a separate application for Planning Approval and a Sign Licence.
7. Hours of operation to be limited from 9:00am to 5:00pm, Monday to Saturday.
8. compliance with Health Act 1911 (as amended) and Regulations made thereunder including the Code of Practice for Skin Penetration Procedures.
9. planning approval to remain valid for a period of 24 months from date of this approval.

CARRIED

T33.8

Duke Street No. 39 (Lot 374) – J Harvey Turner

(Application No. P29/2007)

By Chris Warrener, Consultant Town Planner on 30 March 2007

BACKGROUND

Description of Proposal

An Application for Planning Approval to demolish the single storey house at 39 Duke Street.

Statutory Requirements

Town Planning Scheme No. 3 – Residential R20

Relevant Council Policies

N/a

Documentation

Plans and relevant forms

Date Application Received

22 February 2007

Additional Information Received

3 April 2007

Advertising

Adjoining land owners only

Date Advertised

8 March 2007

Close of Comment Period

22 March 2007

No. of Days Elapsed between Lodgement & Meeting Date

47 days

Any Relevant Previous Decisions of Council and/or History of an Issue or Site

The subject site is located in the George Street Precinct.

CONSULTATION

Development Control Unit

1 March 2007

Town Planning Advisory Panel Comments

- cottage should be retained not relocated
- significant cottage and could be moved forward on the lot
- cottage contributes significantly to the streetscape
- more information required in relation to its heritage
- Heritage Council see relocation as a last resort

Referral to Other Authorities

Heritage Council of WA

Public Submissions

At the close of the comment period (1) written submission in support of the application was received.

Site Inspection

20 March 2007

REPORT

Issues

Heritage

39 Duke Street is in the "George Street Precinct" in the Heritage List under TPS 3.

It is also in the Draft MI classified as a "C" (with a rising symbol) management category.

The Draft MI states for C classified property:

"Category C

Places of some local heritage significance"

and

"Some heritage significance at a local level; places to be ideally retained and conserved; endeavour to conserve the significance of the place through the standard provisions of the Town of East Fremantle Planning Scheme and associated design guidelines; a Heritage Assessment / Impact Statement may be required as corollary to a development application, particularly in considering demolition of the place. Full documented record of places to be demolished shall be required. Further development needs to be within recognised design guidelines. Incentives should be considered where the condition or relative significance of the individual place is marginal but where a collective significance is served through retention and conservation."

Discussion

The Premises

The house at 39 Duke Street was originally a 2-roomed building, which was relocated from the goldfields in the early 1900's.

Since then a number of additions and renovations have occurred, and the building no longer appears in its original form.

Much of the renovation work has included asbestos cladding externally and internally, and a decro-mastic roof. It is considered that neither of these building materials contributes to the 'supposed' heritage value of the property, and asbestos is a banned poisonous building material.

Council's Building Surveyor advised that the building does not comply with current standards, and Council's Environmental

Health Officer advised that the building borders on being unfit for human habitation.

TPAP Comments The panel were of the opinion that the house should not be relocated.

Referral to Heritage Council The application was referred to the Heritage Council for comment; the following summarises its response:

- The subject place is not included in the State Register of Heritage Places or Current Assessment Program and we have minimal information relating to the place and therefore unable to ascertain the impact the proposal may have on the heritage significance of the place.
- We note the Town has asked for the applicant to prepare a heritage assessment of the place for Council consideration and advise the Town to consider seeking independent advice regarding the potential heritage significance of the place prior to determining the matter.
- We do not generally encourage relocation of heritage places as cultural heritage significance is often derived from the historical relationship of the place with its surrounds. Relocation should be considered as a last resort as a means of ensuring the place's survival.
- Should it be determined that the place be relocated it should be adequately recorded prior to dismantling and it should be relocated to an appropriate setting that is consistent with the significance of the place.

Applicant/Owner's Response The Heritage Council's advice was referred to the applicant for comment; the following summarises the applicant's response:

- The original building has largely been replaced over the years due to ad hoc repair work and termite damage.
- The original house we believe was assembled in the goldfields and dismantled and relocated to East Fremantle early last century. We propose to salvage all the original material by careful dismantling and to incorporate these items in a reconstruction on the same plan with the aid of other old building materials salvaged from houses of a similar era which we will source from demolition yards.
- The planned period reconstruction will occur in proximity to York township historic buildings.
- The streetscape in Duke Street will not be altered since the house is well setback and not visible from the street due to vegetation.
- The removal of the house will facilitate a new development more sympathetic to existing setbacks.
- We are preparing a historic record of the house following relocation from the goldfields.
- We consider this essentially to be a transportable dwelling and the proposed reconstruction is sympathetic to the ethos.

In addition the applicant/owner Mrs Rosemary Turner, a Ph.D Historical Researcher, has provided a "Housing Research Report" in the format of a "Heritage Assessment".

This report (see Attachment) concludes:

"The heritage value of the streetscape in Duke Street will be unimpaired by removal of the building at 39 Duke Street, since the house is set well back on the block – much more so than any other

house in the street. In all probability, the erection of a new building sympathetic to the aesthetic façade of its neighbours, will enhance the heritage precinct ambience of Duke Street.”

Conclusion

The Heritage Council advised the Town consider seeking independent advice regarding the potential heritage significance of the place prior to determining the matter.

The applicant was informed of this advice and proceeded to prepare the attached “Housing Research Report” in the format of a Heritage Assessment.

The applicant is a Ph.D Historical Researcher who plans to relocate the original 2 rooms and construct additions on a York property near other historic buildings where *“it will continue to complement the W.A State Heritage.”*

One might contra this approach to suggest that the building should be retained with the proposed new additions at 39 Duke Street rather than at York.

However there are presently no incentives provided by Council or the Heritage Council of Western Australia, which might promote or assist with the retention and sympathetic renovation including additions, to conserve the original 2-roomed ‘cottage’ at 39 Duke Street.

It is unlikely that independent heritage advice will provide different or other information regarding the property than already researched and provided by this particular ‘qualified’ applicant.

Based on the current condition of the building, its front setback at variance with neighbouring properties, and its general ‘rundown unoriginal’ appearance, it is not considered unreasonable to support this particular application.

RECOMMENDATION

That Council grant Planning Approval for the demolition of the single house at No. 39 (Lot 374) Duke Street, East Fremantle, subject to the following conditions:

1. the works to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council’s further approval.
2. the proposed works are not to be commenced until Council has received an application for a demolition licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
3. this planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

The following are not conditions but notes of advice to the applicant/owner:

- (a) this decision of Council does not include acknowledgement or approval of any unauthorised development which may be on the site.*
- (b) a copy of the approved plans as stamped by Council are attached and the application for a demolition licence is to conform with the approved plans unless otherwise approved by Council.*
- (c) it is recommended that the applicant provides a Structural Engineer’s dilapidation report, at the applicant’s expense, specifying which structures on adjoining sites may be adversely affected by the works and providing a record of the existing condition of the structures. Two copies of each dilapidation report should be lodged with Council and one copy should be given to the owner of any affected property.*
- (d) all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).*

Mr & Mrs John & Rosemary Turner (applicants) addressed the meeting stating that whilst it was their intention to dismantle and relocate the cottage, the current structural integrity of the building may not allow this although some elements may be salvaged for reuse ie

chimney, jarrah floor boards and wall panelling/lining.

RECOMMENDATION TO COUNCIL

Cr Dobro – Cr Ferris

That Council refuse the application for planning approval to demolish the single storey residence at No. 39 (Lot 374) Duke Street, East Fremantle on the grounds that the cottage forms an integral part of the existing streetscape and the possibility that it may be relocated on the existing site. CARRIED

Reasons for not Supporting Officer's Recommendation

Whilst the applicant's desire to dismantle and relocate the cottage is genuine, there may be persons willing to reuse the building on the existing site thereby conserving its significance as part of the existing streetscape, it was therefore difficult for the Committee in this instance, to support the proposed demolition of the cottage.

T34. ADJOURNMENT

Cr Ferris – Cr Martin

That the meeting be adjourned at 8.10pm. CARRIED

T35. RESUMPTION

Cr Ferris – Cr Martin

That the meeting be resumed at 8.20pm with all those present at the adjournment in attendance. CARRIED

T36. REPORT'S OF OFFICERS (Cont)

T36.1 *Pier Street No. 51A (Lot 210) – Building Corporation WA Pty Ltd (Application No. P48/2007)*

By Chris Warrener, Consultant Town Planner on 30 March 2007

BACKGROUND

Description of Proposal

An Application for Planning Approval for a two storey house incorporating:

Rear undercroft activity room

Ground floor double garage, entry, laundry, bathroom, kitchen, living, and dining rooms, and outdoor alfresco area;

First floor 4 bedrooms, 2 bathrooms, balcony, and store room.

Note that garage door width represents 49.7% of the property frontage.

Statutory Requirements

Town Planning Scheme No. 3 (TPS 3) – Residential R12.5

Local Planning Strategy – Richmond Hill Precinct (LPS)

Residential Design Codes (RDC)

Relevant Council Policies

Local Planning Policy 066 – Roof pitch

Local Planning Policy No. 142 – Residential Development (LPP 142)

Documentation

Plans and relevant forms date stamp received on 12 March 2007

Date Application Received

12 March 2007

Advertising

Adjoining land owners & sign on site

Date Advertised

15 March 2007

Close of Comment Period

29 March 2007

No. of Days Elapsed between Lodgement & Meeting Date

29 days

Any Relevant Previous Decisions of Council and/or History of an Issue or Site

5 March 2003 Western Australian Planning Commission (WAPC) conditionally approves the subdivision of 51 Pier Street into 2 survey strata lots comprising 51A and 51B Pier Street;

21 Dec. 2004 Council decides to relax boundary setbacks, and conditionally approve the construction of a two-storey single house at 51B Pier Street (Owner – Mr B Mathews);

20 March 2006 Council conditionally approves reduced front, east & west side boundary setbacks, and increased wall height for a 2-storey house at 51A Pier Street (Owner - T & R Mascaro);

18 July 2006 Council conditionally approves reduced east and west side boundary setbacks for a 2-storey house at 51B Pier Street (Owner – Mr Stanley, Applicant - Lomma Homes).

CONSULTATION

Town Planning Advisory Panel Comments

This application was considered by the Town Planning Advisory Panel at its meeting held on 27 March 2007 and the following comments were made:

- does not address street, however due to simplicity will fit in
- front elevation could be softer

Public Submissions

At the close of the comment period 1 submission was received.

- 55 Fraser Street*
- In the past has experienced drainage problems from this lot and the adjoining lot on its west side;
 - Give serious consideration to problem and enforce strict drainage requirements for the proposed new residence.

Site Inspection

By Consultant Town Planner on 14 March 2007

STATISTICS	Required	Proposed
Land Area		465m ² Existing
Open Space	55%	61.7% Acceptable
Zoning		R12.5
Setbacks:		
Front (north)		
<i>Ground</i>	<i>Store</i>	7.50
		6.00
	<i>Garage</i>	7.50
		Discretion required
		7.50
		Acceptable
<i>Upper</i>	<i>Balcony</i>	7.50
		6.00
		Discretion required
Rear (south)		
<i>Undercroft</i>	<i>Activity</i>	6.00
		13.92

				Acceptable
	<i>Ground</i>	<i>Living</i>	6.00	18.00
		<i>Dining</i>	6.00	Acceptable
				13.92
	<i>Upper</i>	<i>Bed 1</i>	6.00	Acceptable
				13.92
		<i>Store</i>	6.00	Acceptable
				18.92
				Acceptable
Rear (east)				
<i>Ground</i>	<i>Dining/Kitchen</i>	1.00		Nil
	<i>Stairs</i>	1.00		Discretion required
				2.40
	<i>Laundry/Store</i>	1.00		Acceptable
				Nil
	<i>Upper</i>	<i>Bed 1</i>	1.50	Discretion required
				4.20
		<i>Stairs</i>	1.20	Acceptable
				2.30
		<i>Bed 2&3</i>	1.50	Acceptable
				Nil
				Discretion required
Rear (west)				
<i>Ground</i>	<i>Garage</i>	1.00		2.20
				Acceptable
	<i>Entry</i>	1.50		3.00
				Acceptable
	<i>Activity</i>	1.00		1.20
				Acceptable
	<i>Dining</i>	1.50		5.40
				Acceptable
	<i>Upper</i>	<i>Balcony</i>	7.50	3.00
				Discretion required
		<i>Bed 4</i>	1.20	2.50
				Acceptable
		<i>Stairs</i>	1.20	4.40
				Acceptable
		<i>Bed 1</i>	1.50	1.20
				Discretion required
Height:				
Wall		6.00		7.20
				Discretion Required
Ridge		9.00		9.00
				Acceptable

Privacy: Upper floor balcony overlooks the front setback and public domain.

REPORT

Issues

Building Height

South Side (Rear) Common with 55 Fraser Street

Wall height for upper floor bedroom 1 varies up to 7.2m above natural ground level (NGL).

East Side Common with 51B Pier Street

Wall height for upper floor bedroom 1 varies up to 7m above NGL.

Wall height for upper floor bedrooms 2 and 3 varies up to 6.4m above NGL.

West Side Common with 49B Pier Street

Wall height for upper floor bedroom 1 varies up to 7.2m above NGL.

The RDC recommend a 6m wall height limit.

Boundary Setbacks

North Side (Front) Boundary

A proposed ground floor store wall and an upper floor balcony are set back 6m from the front boundary.

The RDC recommend a 7.5m setback for R12.5 coded property.

East Side Boundary Common with 51B Pier Street

This application proposes 2 walls longer than 9m with one of these higher than 3m along the east side boundary.

LPP 142 allows a wall 9m long X 3m high along one side boundary.

A 12m long wall for a ground floor dining room and kitchen, and a 10.2m long wall for a ground floor laundry and store are set back 0m from the east side boundary.

The RDC recommend a 1m setback.

A 10.2m long wall for upper floor bedrooms 2 and 3 is set back 0m from the east side boundary.

The RDC recommend a 1.5m setback.

West Side Boundary Common with 49B Pier Street

An upper floor balcony is set back 3m from the west side boundary.

The RDC recommend a 7.5m setback for unscreened balconies.

An upper floor wall for bedroom 1 is setback 1.2m from the west side boundary.

The RDC recommend a 1.5m setback.

Discussion
Building Height

The subject land slopes reasonably steeply down from Pier Street to the rear. The height variations sought are for walls at the rear and are wall heights similar to the variations Council approved for the development of 49A and the adjoining property 51B Pier Street.

Roof height "complies" with the limit of 9m, and roof pitch at 30° "complies" with LPP 066.

The variation to wall height is considered not to affect the

appearance of the property from Pier Street, it does not adversely affect neighbouring property and is supported.

Boundary Setbacks

The parapet walls on the east side boundary about the parapet wall on the east side boundary of the 2-storey house being built at 51B Pier Street. The setback variations along this boundary are considered not to adversely affect the amenity of the potentially affected property, and no submissions were received objecting to these variations.

The proposed variation to the west side setback for an upper floor balcony is not considered to impact on amenity because the potential overlooking is of the front setback area and the public domain.

While the front setback variation does not apply to adjacent property development it does apply to many other houses nearby in Pier Street. The bulk of the building is proposed to be at the recommended RDC setback, and the encroachments could be considered minor intrusions which will contribute to the articulation of the front façade (“breaking” the appearance of the front façade on a narrow lot).

It is considered that this variation will not adversely affect the local streetscape or the amenity of adjoining property.

Submissions

55 Fraser Street is downhill (to the south) of the subject property, and there is evidence of runoff from the subject property, and the adjoining property 51B Pier Street.

Presently there is no on-site containment of drainage at 51A Pier Street however as a condition of the proposed 2-storey house the following drainage containment measure is required:

4. *all stormwater to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a building licence.*

TPAP Comments

There was consensus at the panel meeting that the proposed house design is acceptable, not unlike a large number of 2-storey houses built, and under construction nearby.

RECOMMENDATION

That Council exercise its discretion in granting approval for the following:

- (a) variation to wall height on the south side for upper floor bedroom 1 pursuant to the Residential Design Codes from 6m to 7.2m;
- (b) variation to wall height on the east side for upper floor bedroom 1 pursuant to the Residential Design Codes from 6m to 7m;
- (c) variation to wall height on the east side for upper floor bedrooms 2 and 3 pursuant to the Residential Design Codes from 6m to 6.4m;
- (d) variation to wall height on the west side for upper floor bedroom 1 pursuant to the Residential Design Codes from 6m to 7.2m;
- (e) variation to the north side (front) boundary setback for a ground floor store wall and an upper floor balcony pursuant to the Residential Design Codes from 7.5m to 6m;
- (f) variation to the east side boundary setback for a dining room, kitchen, laundry and store pursuant to the Residential Design Codes from 1m to 0m;
- (g) variation to the east side boundary setback for an upper floor wall for bedrooms 2 and 3 pursuant to the Residential Design Codes from 1.5m to 0m;
- (h) variation to the west side boundary setback for an upper floor balcony pursuant to the Residential Design Codes from 7.5m to 3m;

(g) variation to the west side boundary setback for upper floor bedroom 1 wall pursuant to the Residential Design Codes from 1.5m to 1.2m;

for the construction of a two storey house incorporating:

Rear Undercroft Activity room

Ground floor Double garage, entry, laundry, bathroom, kitchen, living, and dining rooms, and outdoor alfresco area;

First Floor 4 bedrooms, 2 bathrooms, balcony, and store room.

at No. 51A (Lot 210) Pier Street, East Fremantle in accordance with the plans date stamp received on 12 March 2007 subject to the following conditions:

1. the works to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
2. the proposed works are not to be commenced until Council has received an application for a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
3. the proposed dwelling is not to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
4. all stormwater to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a building licence.
5. all parapet walls to be fair faced brickwork or cement rendered to the adjacent property face by way of agreement between the property owners and at the applicant's expense.
6. where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. If Council refuses to approve such works, then this condition cannot be satisfied and this planning approval is not valid.
7. any new crossovers which are constructed under this approval to be a maximum width of 3.0m, the footpath (where one exists) to continue uninterrupted across the width of the site and the crossover to be constructed in material and design to comply with Council's Policy on Footpaths & Crossovers.
8. in cases where there is an existing crossover this is to be removed and the kerb, verge and footpath are to be reinstated at the applicant's expense to the satisfaction of Council, unless on application, Council approval for the crossover to remain is obtained.
9. this planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

The following are not conditions but notes of advice to the applicant/owner:

- (a) *this decision of Council does not include acknowledgement or approval of any unauthorised development which may be on the site.*
- (b) *a copy of the approved plans as stamped by Council are attached and the application for a building licence is to conform with the approved plans unless otherwise approved by Council.*
- (c) *it is recommended that the applicant provides a Structural Engineer's dilapidation report, at the applicant's expense, specifying which structures on adjoining sites may be adversely affected by the works and providing a record of the existing condition of the structures. Two copies of each dilapidation report should be lodged with Council and one copy should be given to the owner of any affected property.*
- (d) *all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).*
- (e) *in regard to the condition relating to the finish of the neighbour's side of the parapet wall it is recommended that the applicant consult with the neighbour to resolve a mutually agreed standard of finish.*
- (f) *with regard to construction of the crossover the applicant/builder is to contact Council's Works Supervisor.*

RECOMMENDATION TO COUNCIL

Cr Martin – Cr Ferris

That Council exercise its discretion in granting approval for the following:

- (a) variation to wall height on the south side for upper floor bedroom 1 pursuant to the Residential Design Codes from 6m to 7.2m;**
- (b) variation to wall height on the east side for upper floor bedroom 1 pursuant to the Residential Design Codes from 6m to 7m;**
- (c) variation to wall height on the east side for upper floor bedrooms 2 and 3 pursuant to the Residential Design Codes from 6m to 6.4m;**
- (d) variation to wall height on the west side for upper floor bedroom 1 pursuant to the Residential Design Codes from 6m to 7.2m;**
- (e) variation to the east side boundary setback for a dining room, kitchen, laundry and store pursuant to the Residential Design Codes from 1m to 0m;**
- (f) variation to the east side boundary setback for an upper floor wall for bedrooms 2 and 3 pursuant to the Residential Design Codes from 1.5m to 0m;**
- (g) variation to the west side boundary setback for an upper floor balcony pursuant to the Residential Design Codes from 7.5m to 3m;**
- (h) variation to the west side boundary setback for upper floor bedroom 1 wall pursuant to the Residential Design Codes from 1.5m to 1.2m;**

for the construction of a two storey house incorporating:

Rear Undercroft Activity room

Ground floor Double garage, entry, laundry, bathroom, kitchen, living, and dining rooms, and outdoor alfresco area;

First Floor 4 bedrooms, 2 bathrooms, balcony, and store room.

at No. 51A (Lot 210) Pier Street, East Fremantle in accordance with the plans date stamp received on 12 March 2007 subject to the following conditions:

- 1. prior to the issue of a building licence amended plans be submitted showing a front setback of 7.5m in compliance with the Residential Design Codes.**
- 2. the works to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.**
- 3. the proposed works are not to be commenced until Council has received an application for a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.**
- 4. the proposed dwelling is not to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.**
- 5. all stormwater to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a building licence.**
- 6. all parapet walls to be fair faced brickwork or cement rendered to the adjacent property face by way of agreement between the property owners and at the applicant's expense.**
- 7. where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. If Council refuses to approve such works, then this condition cannot be satisfied and this planning approval is not valid.**
- 8. any new crossovers which are constructed under this approval to be a maximum width of 3.0m, the footpath (where one exists) to continue uninterrupted across the width of the site and the crossover to be constructed in material and design to comply with Council's Policy on Footpaths & Crossovers.**
- 9. in cases where there is an existing crossover this is to be removed and the kerb, verge and footpath are to be reinstated at the applicant's expense to the satisfaction of Council, unless on application, Council approval for the crossover to remain is obtained.**
- 10. this planning approval to remain valid for a period of 24 months from date of**

this approval.

Footnote:

The following are not conditions but notes of advice to the applicant/owner:

- (a) this decision of Council does not include acknowledgement or approval of any unauthorised development which may be on the site.*
- (b) a copy of the approved plans as stamped by Council are attached and the application for a building licence is to conform with the approved plans unless otherwise approved by Council.*
- (c) it is recommended that the applicant provides a Structural Engineer's dilapidation report, at the applicant's expense, specifying which structures on adjoining sites may be adversely affected by the works and providing a record of the existing condition of the structures. Two copies of each dilapidation report should be lodged with Council and one copy should be given to the owner of any affected property.*
- (d) all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).*
- (e) in regard to the condition relating to the finish of the neighbour's side of the parapet wall it is recommended that the applicant consult with the neighbour to resolve a mutually agreed standard of finish.*
- (f) with regard to construction of the crossover the applicant/builder is to contact Council's Works Supervisor.*

CARRIED

T37. EN BLOC RECOMMENDATION TO COUNCIL

Cr Ferris – Cr Martin

That Council adopts en bloc the following recommendations of the Town Planning & Building Committee meeting of 10 April 2007 in respect to Items MB Ref: T37.1 to T37.10.

CARRIED

T37.1 *Riverside Road No. 1 (Unit 22) (Pt Lot 26) – W & R Andersson
(Application No. P39/2007)
By Beryl Foster, Acting Town Planner on 19 March 2007*

BACKGROUND

Description of Proposal

Proposed garden shed/outbuilding on a strata lot on the corner of Canning Highway and East Street

Statutory Requirements

Town Planning Scheme No. 3 – R80
Residential Design Codes

Relevant Council Policies

Local Planning Policy No. 142 – Residential Development

Documentation

Plans received 23 February 2007 and relevant forms

Date Application Received

23 February 2007

Additional Information Received

Nil

Advertising

Adjoining land owners

Date Advertised

13 March 2007

Close of Comment Period

28 March 2007

No. of Days Elapsed between Lodgement & Meeting Date

46 days

Any Relevant Previous Decisions of Council and/or History of an Issue or Site

Nil

CONSULTATION**Development Control Unit**

1 March 2007

Public Submissions

At the close of the comment period one submission of support from the Body Corp was received.

Site Inspection

19 March 2007

REPORT**Issues**

Boundary wall

Discussion

Approval is sought for a garden shed/outbuilding at the south-eastern corner of an existing strata lot on the corner of Canning Highway and East Street.

The colorbond shed is proposed to be "classic cream" and abut existing walls of some 2m in height along Canning Highway and a strata boundary.

Given that the shed height is proposed to remain below the existing walls, the location of the shed is considered to provide effective use of space and would not have an undue adverse impact on the amenity of the adjoining neighbours and the streetscape, and can be supported.

Option(s)

1. Conditional approval; or
2. Compliance with Scheme requirements.

Conclusion(s)

The proposal is considered acceptable, and can be supported subject to standard and appropriate conditions to reflect the above.

RECOMMENDATION

That Council exercise its discretion in granting approval for the construction of a garden shed at the south-eastern corner on Pt Lot 26 (No. 1/Unit 22) Riverside Road, East Fremantle, in accordance with plans received 23 February 2007 subject to the following conditions:

1. the shed shall be constructed at a height below the height of the existing walls.
2. the works to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further

- approval.
3. the proposed works are not to be commenced until Council has received an application for a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
 4. all stormwater to be disposed of on site.
 5. compliance with all relevant engineering, building and health requirements.
 6. this planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

The following are not conditions but notes of advice to the applicant/owner:

- (a) *this decision of Council does not include acknowledgement or approval of any unauthorised development which may be on the site.*
- (b) *a copy of the approved plans as stamped by Council are attached and the application for a building licence is to conform with the approved plans unless otherwise approved by Council.*
- (c) *all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).*

RECOMMENDATION TO COUNCIL

That Council exercise its discretion in granting approval for the construction of a garden shed at the south-eastern corner on Pt Lot 26 (No. 1/Unit 22) Riverside Road, East Fremantle, in accordance with plans received 23 February 2007 subject to the following conditions:

1. **the shed shall be constructed at a height below the height of the existing walls.**
2. **the works to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.**
3. **the proposed works are not to be commenced until Council has received an application for a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.**
4. **all stormwater to be disposed of on site.**
5. **compliance with all relevant engineering, building and health requirements.**
6. **this planning approval to remain valid for a period of 24 months from date of this approval.**

Footnote:

The following are not conditions but notes of advice to the applicant/owner:

- (a) *this decision of Council does not include acknowledgement or approval of any unauthorised development which may be on the site.*
- (b) *a copy of the approved plans as stamped by Council are attached and the application for a building licence is to conform with the approved plans unless otherwise approved by Council.*
- (c) *all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).*

T37.2 **Marmion Street No. 154 (Unit 1) (Lot 225) – Malow Metals**
(Application No. P46/2007)
By Chris Warrener, Consultant Town Planner on 27 March 2007

BACKGROUND

Description of Proposal

An Application for Planning Approval for a patio in the front setback of Unit 1, 154 Marmion Street.

Statutory Requirements

Town Planning Scheme No. 3 (TPS 3) – Residential R12.5
Local Planning Strategy - Woodside Precinct (LPS)
Residential Design Codes (RDC)

Relevant Council Policies

Local Planning Policy No. 142 – Residential Development (LPP 142)

Documentation

Plans and relevant forms date stamp received on 8 March 2007.

Date Application Received

8 March 2007

No. of Days Elapsed between Lodgement & Meeting Date

33 days

Any Relevant Previous Decisions of Council and/or History of an Issue or Site

19 September 1983	Council grants conditional approval to erect 3 single storey town houses at 154 Marmion Street;
31 October 1983	Building Licence issued for 3 single storey town houses;
20 July 1984	Town Clerk endorses Strata Plan 12245 for a brick and tile residential complex of 3 units.

Site Inspection

By Consultant Town Planner on 27 February 2007.

REPORT

Issues

<i>Boundary Setbacks</i>	The proposed patio is set back 2.5m from the front boundary. The RDC recommend a 7.5m setback for R12.5 coded property.
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Discussion

The patio will be set back 1.5m behind a 1.8m high non-visually permeable masonry fence, which is set back 0.9m from the front boundary.

The grouped dwelling on this property is set back 6m from the front boundary.

The subject site is part of a grouped dwelling development, and the only area available that is considered large enough and practicable for private entertaining/relaxing/outdoor living on the site is the land in the front setback.

Being well hidden behind a 1.8m high masonry wall the patio is considered not to have an adverse impact on streetscape and is supported.